

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1386 be amended to read as follows:

- 1 Page 187, between lines 26 and 27, begin a new paragraph and
- 2 insert:
- 3 "SECTION 142. IC 32-8-11-10 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) This chapter
- 5 does not limit:
- 6 (1) the right to assign, mortgage, or pledge the rents and profits
- 7 arising from real estate;
- 8 (2) the right of an assignee, a mortgagee, or a pledgee to collect
- 9 rents and profits for application in accordance with an
- 10 assignment, a mortgage, or a pledge; or
- 11 (3) the power of a court of equity to appoint a receiver to take
- 12 charge of real estate to collect rents and profits for application in
- 13 accordance with an assignment, a mortgage, or a pledge.
- 14 (b) A person may enforce an assignment, a mortgage, or a pledge of
- 15 rents and profits arising from real property:
- 16 (1) whether the person has or does not have possession of the real
- 17 estate; and
- 18 (2) regardless of the:
- 19 (A) adequacy of the security; or
- 20 (B) solvency of the assignor, mortgagor, or pledgor.
- 21 (c) If a person:
- 22 (1) enforces an assignment, a mortgage, or a pledge of rents and
- 23 profits arising from real estate; and
- 24 (2) does not have possession of the real estate;

1 the obligations of a mortgagee in possession of real estate may not be
2 imposed on the holder of the assignment, mortgage, or pledge.

3 **(d) A mortgagee seeking equitable subrogation with respect to**
4 **a lien may not be denied equitable subrogation solely because:**

5 **(1) the mortgagee:**

6 **(A) is engaged in the business of lending; and**

7 **(B) had constructive notice of the intervening lien over**
8 **which the mortgagee seeks to assert priority;**

9 **(2) the lien for which the mortgagee seeks to be subrogated**
10 **was released; or**

11 **(3) the mortgagee obtained a title insurance policy."**

12 Renumber all SECTIONS consecutively.

(Reference is to HB 1386 as printed January 30, 2002.)

Representative Kuzman